

Appl. No. 09/328,975
Amdt. dated 06/15/2006
Reply to Office action of 04/05/2006

Remarks

Rejection of the claims under 35 USC § 102

Claims 1, 3, 5, and 7 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Degols et al. in view of Leonetti et al. taken with the evidence of Weithoff et al. Applicants have amended claim 1 to obviate the rejection. Specifically, Applicants have amended claim 1 to recite the limitation of the nucleic acid being associated via a non-covalent ionic interaction with the polycation. Degols teaches the covalent association of a nucleic acid with a polylysine. Applicants define ionic interactions as non-covalent association of two or more substances on page 16 lines 19-21. Applicants teach the non-covalent association of a polycation with a nucleic acid on page 18 lines 9-15, page 20 lines 12-20, page 20 line 30 to page 21 line 11, and in the examples. In light of the amendment, Applicants request reconsideration of the 102 rejection.

Rejection of the claims under 35 USC § 102


Claims 1, 3, 5, and 7 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al. in view of Degols et al. In light of the amendment, Applicants request reconsideration of the 102 rejection. Because Degols et al. covalently attached polylysine to the polynucleotide, Degols et al. taught a binary complex and not a tertiary complex as taught by the Applicants. There is no suggestion in Degols et al. that a polyanion can be successfully complexed with a polynucleotide/polycation complex in the absence of a covalent attachment of the polynucleotide to the polycation.

The Examiner's rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 1, 3, and 5-8 should be allowable. Applicants respectfully request a timely Notice of Allowance be issued in the case.

Respectfully submitted,



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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460 on this date: June 15, 2006.

Kirk Ekena

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